

TITLE 3

BUSINESS CODE

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## TITLE 3

### BUSINESS CODE

#### CHAPTER 3-1 – BUSINESS LICENSES

##### Article 3-1.01 – Definitions

"Food products" is defined under this chapter as it is under Ariz. Rev. Stat. Ann. § 3-561(2).

"Goods" is defined in this chapter as it is under the Arizona version of the Uniform Commercial Code, Ariz. Rev. Stat. Ann §47-2105, as well as the authorities interpreting the term "goods" under the Uniform Commercial Code, with the exception of "food products".

"Mobile Vendor" is defined as any person selling goods or services from any vehicle, kiosk or any other point of sale that is not a permanent structure having a postal address. This definition shall not include any person providing or offering to provide scheduled delivery of food products to the door of any residence or business within the City at least once every fourteen (14) days.

"Peddle" means traveling by foot automobile or any other type of vehicle, or pulling a trailer from place to place or door-to-door, whether invited or uninvited, carrying, conveying or transporting goods or services to potential purchasers, as well as soliciting orders for goods or services. The word "peddle" does not include the following:

- (1) Any person who holds a general business license and who provides, or offers to provide, scheduled delivery of food products to the door of any residence or business within the City at least once every fourteen (14) days;
- (2) Any person who holds a general business license and who uses a vehicle on the roads on a seasonal basis to offer for sale frozen dessert products, candy, drinks, and toys; and who is generally considered to be the "ice cream man"; and
- (3) Any person selling subscriptions for delivery of newspapers to the door of a residence on a regular daily or weekly schedule.

"Person" means any individual, company, corporation, firm, partnership, limited liability partnership, limited liability company, or trust. The word "person" also includes any individual hired by or acting on behalf of another individual, company, corporation, partnership, limited liability partnership, limited liability company or trust to engage in street sales or door-to-door sales.

"Pushcart" means a vehicle propelled by human power which has been specifically designed for the sales of goods or services.

"Producer" means owners, proprietors, or tenants of agricultural lands, orchards, farms and gardeners whereon food products are grown, raised or prepared for market, as set forth in Ariz. Rev. Stat. Ann. §3-561(1).(Ord. 855 (part), 2006: Ord. 792 §2(part), 1999)

Article 3-1.02 – General Business License Tax All persons regularly engaged in any pursuit, business, trade, occupation or employment within the City limits, who do not qualify for mobile

merchant's license and who will sell goods and/or services from a permanent structure having a mailing address under Article 3-1.09 shall pay a license tax of an amount to be determined by the City Council subject to the following exceptions:

- (a) No local church, local church organization, fraternal order, social organization, charitable organization or school is required to pay a license tax for:
  - (1) Any casual business or occupation in which admission is free; or
  - (2) When the revenue from the business or occupation is designated for a charitable, educational or benevolent use.
- (b) Any person who has less than three (3) apartments, houses, trailer spaces, or other lodging spaces available for rent, lease or license, is not considered to be regularly engaged in a business; provided, however, if that person is also receiving income from renting, leasing or licensing one (1) or more commercial properties, such person is considered to be regularly engaged in business and must obtain licenses for all rental, lease or license properties. (Ord. 855 (part), 2006: Ord. 792 §2(part), 1999)

#### Article 3-1.03 – Separate Licenses for Different Locations

- (a) If any person carries on a business, trade or occupation at more than one (1) location within the City, the person must obtain a separate license for each place of business, trade or occupation.
- (b) If a person carries on several businesses, trades or occupations under one (1) management, or as one (1) business, the person shall pay a license fee for each separate business, trade or occupation.
- (c) If a person carries on several businesses, trades or occupations independently and by separate and distinct managements, the person shall pay a license fee for each separate business, trade or occupation. (Ord. 855 (part), 2006: Ord. 792 §2 (part), 1999)

#### Article 3-1.04 – Application for License

- (a) Every person shall obtain an application for a license to carry on a trade, business or occupation in the office of the City Clerk.
- (b) The applicant must state in the application:
  - (1) The business, trade or occupation for which the application is sought;
  - (2) The name of the applicant;
    - (i) If the applicant is a partnership, the name of the person applying for the license on behalf of the partnership and the names of the partners;
    - (ii) If the applicant is a limited liability company, the name of the person applying for the license on behalf of the limited liability company and the names of the members of the limited liability company;
    - (iii) If the applicant is a corporation, the name of the person applying for the license on behalf of the corporation and the names of the officers of the corporation;

- (iv) If the applicant is a church, club or charitable institution that is not located in the City of Williams, the name of the person applying for the license on behalf of the church, club or charitable institution and the names of the members of the board of the club or charitable organization.
  - (3) The location where the business, trade or occupation is to be carried on, even if the person is acting as a mobile merchant.
  - (4) Whether the business, trade or occupation will be carried on from a vehicle; or "building" ; "building accessory"; "dwelling"; "mobile home"; "modular home"; "recreational vehicle"; "structure"; and specify the kind of "structure"; "trailer utility"; or "travel trailer"; as those phrases are defined in the Williams Zoning Ordinance, which is currently codified at Title 12, Article 12-3-02 ("Definitions") and which are incorporated herein by reference.
  - (5) Shall certify to the City Clerk that the location of the business, trade or occupation will not constitute a violation of provisions of the Williams City Code pertaining to zoning, buildings, housing, fire, plumbing, dangerous buildings, and nuisances, or conflict with any provision of this Article.
  - (6) Shall provide to the City Clerk a copy of that person's Arizona transaction privilege license.
- (c) The application for license shall be filed with the City Clerk at or before the time of issuing the license. (Ord. 855 (part), 2006: Ord. 792 §2 (part), 1999)

Article 3-1.05 – Time for Payment of License Tax

- (a) The annual license tax shall be paid in advance on the first day of January of each year. If a person fails to pay any license fee by January 31, that person shall also be assessed a late fee in an amount to be determined by the City Council.
- (b) For any businesses, trades or occupations, every person shall pay the City Clerk before engaging in any business, trade or occupation. (Ord. 855 (part), 2006: Ord. 792 §2 (part), 1999)

Article 3-1.06 – Basis for Denial of Business Licenses

- (a) The Williams City Clerk has the discretion to have any business license application reviewed by other city officials for recommendations on whether, if the application is granted, the applicant will be in violation of the provisions of the Williams City Code and which will subject the applicant to revocation or suspension of the license. Any official who reviews such an application at the request of the City Clerk and believes that there will be a violation, shall state in writing the basis for the belief and the provisions of the Williams City Code that would be violated if the application were granted.
- (b) After receipt of the written comments of the city official, the City Clerk shall have the discretion to either grant the application for a license or deny the applicant a business license.

- (c) If the City Clerk denies an application for a business license, the clerk shall state in writing the basis for the denial. The City Clerk shall also notify the applicant of the right to appeal the denial to the Williams City Council and the deadline for filing such an appeal.
- (d) If the City Clerk grants a business license and there is a written statement that there may be a violation of a provision of the Williams City Code, the City of Williams will not be barred or estopped from enforcing the Williams City Code. If the City Clerk grants a business license, but has not requested review of the application by another city official, the City of Williams will not be barred or estopped from enforcing the Williams City Code. (Ord. 855 (part), 2006: Ord. 792 §2 (part), 1999)

#### Article 3-1.07 – Rules Applicable to all Business Licenses

- (a) The regulations in this section apply to any person who holds a general business license or any person who holds a temporary business license.
- (b) Any mobile merchant who is using a vehicle or trailer cannot claim or attempt to establish any exclusive right to park at a particular street location. Any person who is using a vehicle or trailer cannot park at any location on a public street for more than one (1) hour within any eight- (8) hour period.
- (c) It is unlawful for any person to sell any personal property from any vehicle, pushcart, stand or other movable or temporary contrivance within five hundred (500) feet of any school grounds between that time period commencing one-half (1/2) hour prior to the start of each school day and ending one-half (1/2) hour after school was dismissed. The City Clerk shall prepare a map showing the aforementioned restricted areas, which map shall be on file in the City Clerk's office and copies of which shall be made available to permit holders.
- (d) No person shall sell any personal property, including, but not limited to food and drink, from any vehicle, pushcart, stand or other movable or temporary contrivance within a public park. Provided, however, that:
  - (1) The City Council may authorize the calling of competitive bids to approve food sales in one (1) or more public parks and may award a franchise to one (1) or more persons submitting the best bids; or
  - (2) The City Manager may authorize a person to sell food and drink in any City Park that does not have a permanent concession facility without respect to competitive bid provisions if a private group or organization meeting there requests that the specific mobile merchant be permitted to sell to their group during a specified period at a specified location. A permit under Article 6-1.06 must be obtained for liquor sales in addition to the provisions of this Section.
- (e) It is unlawful for any person to sell any type of personal property from any vehicle, pushcart, stand or other movable or temporary contrivance or by peddling within two hundred (200) feet of any competing or like-type business within the City unless such person has the written permission of all competing or like-type businesses within such limit.

- (1) If a like-type business locates within two hundred (200) feet of an existing sidewalk vendor location, the mobile merchant will be required to relocate unless obtaining permission under this section. (Ord. 855 (part), 2006: Ord. 792 §2 (part), 1999)

#### Article 3-1.08 – Period for General Business License

- (a) All new licenses shall be issued for a period from the date of the issuance of the license to the end of the calendar year, unless the license is suspended or revoked.
- (b) All licenses that are renewed shall be issued for the entire calendar year. (Ord. 855 (part), 2006: Ord. 792 §2(part), 1999)

#### Article 3-1.09 – Temporary Business Permits for Mobile Vendors

- (a) Every person who does not have a general business license and wishes to sell goods or services on a sidewalk, street, alley or any public place; any person who is a mobile vendor
- (b) The application for a temporary business license shall include:
  - (1) The name of the applicant;
    - (i) If the applicant is a partnership, the name of the person applying for the license of behalf of the partnership and the names of the partners;
    - (ii) If the applicant is a limited liability company, the name of the person applying for the license on behalf of the limited liability company and the names of the members of the limited liability company;
    - (iii) If the applicant is a corporation, the name of the person applying for the license on behalf of the corporation and the names of the officers of the corporation;
    - (iv) If the applicant is a church, club or charitable institution that is not located in the City of Williams, the name of the person applying for the license on behalf of the church, club or charitable institution and the names of the members of the board of the club or charitable organization.
  - (2) The permanent and local address of the person. If the applicant is applying on behalf of a partnership, corporation or limited liability company, the applicant must include his or her permanent address and local address, and credentials establishing the nature of the relationship the partnership, corporation or limited liability company.
  - (3) A brief description of the nature of the business, and the goods or services to be sold.
  - (4) State the place or places where the goods or services are to be sold.
  - (5) If sales are to be made on streets, sidewalks, or alleys, proof that adjoining landowners or occupants have no objection to the issuance of a sidewalk sale license.
  - (6) If a vehicle is going to be used to assist the seller of goods or services in any way, a description of the vehicle and the license plate number of the vehicle.
  - (7) Proof of a valid and current transaction privilege license in the name of the person or organization to whom the license will be issued. Shall provide to the City Clerk a copy of that person's Arizona transaction privilege license.

- (8) The date on which the person will conduct the sales, which are not to exceed seven (7) days from the date of the issuance of the license.
- (9) The names and permanent and local addresses of all individuals who will be selling goods or services on behalf of the person named in the application. Copies of such identification of each person shall be in a form acceptable to the City Clerk.
- (c) The applicant shall pay a fee for the temporary license in an amount to be determined by the City Council.
- (d) The temporary license shall only be valid for seven (7) calendar days from the date of its issuance.
- (e) The City will issue no more than four (4) temporary licenses for any one (1) person during a calendar year.
- (f) The City will issue to the applicant one (1) certificate for the temporary license. If there is more than one (1) individual who may sell goods and services on behalf of the person who obtains the temporary license, the applicant must make copies of the certificate for each individual. Each individual must have available the temporary business permit available for review by City staff or law enforcement. Failure to do so may result in a citation under this Section. Subsequent proof of a valid temporary business license at the time of citation is a complete defense to the citation.
- (g) No person shall transfer a temporary license to any other person.
- (h) All persons who have a temporary business license shall abide by the following regulations:
  - (1) No street or alley shall be blocked.
  - (2) A three (3) foot passageway shall be left open for pedestrians on sidewalks.
  - (3) Goods shall be securely placed so that they will not endanger the health, safety or welfare of pedestrians, or fall or extrude into a street or alley.
  - (4) Sales shall not be conducted to create a fire or safety hazard.
  - (5) Any individual engaging in sidewalk sales or peddling shall not hinder the efforts of any law enforcement officer or the fire department.
  - (6) No person shall shout, cry out, blow a horn, ring a bell, or use any sound device, including a radio or sound amplification system on any streets, alleys, parks or other public places in a manner that would be an inconvenience or annoyance to the public. For purposes of this Section, a complaint by a citizen or the good faith judgment of a police officer shall be deemed conclusive as to whether the sound is an inconvenience or annoyance to the public.
  - (7) Any person who is peddling cannot maintain a stationary location on the street, private property, sidewalks, or alley for more than seven (7) days.
  - (8) No license shall be issued until satisfactory evidence is presented that the mobile merchant has obtained public liability insurance in a company or companies agreeable to the City, naming the City as an additional insured, and in an amount not

less than one million dollars (\$1,000,000.00) for injury to one (1) person and two million dollars (\$2,00,000.00) aggregate damages, insuring the City against any and all liability or expense that may be incurred by reason of any accident to any person, persons or property arising from or in any way growing out of the use of the right-of-way by the mobile merchant.

- (i) The licensing provisions of this Section do not apply to persons who have a general business license and may be using a sidewalk near their place of business for sale of goods or services.
- (j) Unless a person has first obtained a license from the City, it is a class 1 misdemeanor for any person to display for sale, sell or vend goods or services in the following manner:
  - (1) On sidewalks, streets, alleys or any public place within the City Limits.
  - (2) By peddling.
- (k) Nothing in this section restricts or denies the right to sell food products by a producer, or to impose a tax, license or fee on the sale of food by a producer pursuant to Ariz. Rev. Stat. Ann. §§3-561 to 3-563. (Ord. 855 (part), 2006: Ord. 792 §2 (part), 1999)

Article 3-1.10 – License not Transferable No license shall be transferable to any other person, or any other business, trade or occupation. (Ord. 855 (part), 2006: Ord. 792 §2 (part), 1999)

Article 3-1.11 – Unlawful to Operate Without a License

- (a) Any person engaged in the operation of a business, trade or occupation without first having obtained a license required by this chapter, shall be guilty of a class 1 misdemeanor.
- (b) Any person who continues to operate a business, trade or occupation after that person's license has been revoked or suspended, is guilty of a class 1 misdemeanor.
- (c) Every day, a business, trade or occupation is conducted without a license, constitutes a separate violation of this Section of the Code. (Ord. 855 (part), 2006: Ord. 792 §2 (part), 1999)

Article 3-1.12 – Register of Licenses The City Clerk shall maintain a register containing the name of every person to whom a general business or temporary license was issued, the date the license was issued, the purpose for which it was granted, and the amount paid for the license. The City Clerk shall not distribute copies of the register, but the City Clerk will make such register available for inspection if a person makes a public records request. (Ord. 855 (part), 2006: Ord. 792 §2 (part), 1999)

Article 3-1.13 – Public display of Licenses Every person shall display a valid city business license in a public and conspicuous place. (Ord. 855 (part), 2006: Ord. 792 §2 (part), 1999)

Article 3-1.14 – Revocation or Suspension of License

- (a) Any general or temporary business license shall be dated as of the date of its issuance. If a person violates the conditions under which the license has been issued, the City

Manager may revoke the license. The license shall be void from the date of any revocation and the amount paid for the license shall be forfeited to the City.

- (b) The City Manager may suspend any business license if the business is in violation of the Williams City Code.
- (c) The City Manager may initiate the process to revoke or suspend a business license by issuance of a notice to abate a violation. The notice shall state the basis for the notice by informing the holder of the license of the condition or conditions noted and the provisions of the Williams City Code that are believed to be in violation. The notice shall give the holder of the license thirty (30) days to abate the violation except that the holder of a temporary license will have twenty-four (24) hours to abate the violation. The notice shall also inform the holder that if the condition or conditions are not abated, the City can issue a civil citation pursuant to Article 3-1.18, issue a notice of revocation or suspension of the license, or both.
- (d) If, after the expiration of the time designated above in Section (c) the violation has not been abated and the City Manager deems it appropriate to revoke or suspend a license, the City Manager shall issue a notice of revocation or suspension of a business license.
  - (1) The notice shall be served on the holder either by personally serving the notice or by mailing the notice by certified mail, return receipt requested. In complying with the obligation to "personally serve" the notice, the City Manager may follow Arizona Rule of Civil Procedure 4.1 and 4.2. In complying with the obligation to mail notice to the holder of the business license, the City Manager can mail the notice to the location of the business, trade or occupation, or to the last known address of the applicant. Notice is deemed effective on the date that it is hand delivered, sent or deposited in the United States mail. Proof of service of the notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the persons effecting service, declaring the time, date, and manner in which service was made. The declaration, together with any receipt card returned in acknowledgment of receipt by certified mail shall be affixed to the copy of the notice and order.
  - (2) The notice shall state the basis for the revocation or suspension by informing the holder of the license of the condition or conditions noted and the provisions of the Williams City Code that have been violated.
  - (3) The notice shall state that the revocation or suspension will take effect fifteen (15) days later, or immediately in the case of a temporary business license, unless the decision is appealed to the Williams City Council under the provision set forth in Article 3-1.15 to 3-1.17. (Ord. 855 (part), 2006: Ord. 792 §2 (part), 1999)

#### Article 3-1.15 – Appeals to City Council

- (a) Any denial of any type of business license may be appealed to the Williams City Council. Any notice of revocation or suspension of a business license may be appealed to the Williams City Council.

- (b) An appeal must be filed within fifteen (15) days of the service of the denial of the business license or within fifteen (15) days of the date of service of a notice of revocation or suspension of a business license. An appeal must be filed with the City Clerk's office.
- (c) Failure of a person entitled to appeal under this chapter to timely file an appeal shall constitute a waiver of the right to a hearing of the denial and such person shall be stopped to deny the validity of the denial of the business license, or revocation or suspension of a business license.
- (d) The notice of appeal shall set forth, in writing, the person's reasons for believing that the denial of the application was incorrect, or why the decision to revoke or suspend a business license was incorrect.
- (e) The individual appealing shall accompany the written appeal with an appeal fee in an amount to be determined by the City Council and to be deposited in the general fund of the City.
- (f) In case of financial hardship, the fee may be suspended. (Ord. 855 (part), 2006: Ord. 792 §2 (part), 1999)

Article 3-1.16 – Matters on Appeal Any person may appeal a denial of an application of any type of business license, or the decision to revoke or suspend a business license. The issues on appeal are whether:

- (a) The applicant and/or application was in conformity with the provisions of this Article, or any provisions of the Williams City Code that have been incorporated by reference.
- (b) The holder of a business license violated the provisions in this Article, or any other article of the Williams City Code that the holder of a business license must comply with, which is cause for revocation or suspension of the business license. (Ord. 855 (part), 2006: Ord. 792 §2 (part), 1999)

Article 3-1.17 – Procedure on Appeal

- (a) The City Council shall set a date for hearing on appeal within thirty (30) days of the receipt of notice of appeal by the City Clerk. The notice to appellant shall be substantially in the following form, but may include other information:  
  
 "You are hereby notified that a hearing will be held before the City of Williams City Council at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at the hour of \_\_\_\_\_, upon the notice and order served upon you. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you."
- (b) A record of the entire proceedings shall be made by tape recording or by any other means of permanent recording determined to be appropriate by the Council. The proceedings at the hearing may also be reported by a certified court reporter if requested by appellant and paid for by appellant. If the appellant retains the services of a court reporter, a copy

of the transcript shall be made available to the City, if requested, upon payment of the court reporter's fee for a copy of the transcript.

- (c) The Council shall take testimony from all parties to the appeal. The City Council has the power to administer oaths and affirmations and to certify to official acts.
- (d) Each party shall have these rights, among others:
  - (1) To call and examine witnesses on any matter relevant to the issues of the hearing;
  - (2) To introduce documentary and physical evidence;
  - (3) To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;
  - (4) To impeach any witness regardless of which party first called the witness to testify;
  - (5) To rebut the evidence; and
  - (6) To be represented by anyone who is lawfully permitted to do so in the state of Arizona.
- (e) If the City Council deems it appropriate, the City Council may inspect any building, vehicle, structure or premises involved in the appeal as part of the hearing, provided that
  - (1) Notice of such inspection shall be given to the parties before the inspection is made;
  - (2) The parties are given an opportunity to be present during the inspection; and
  - (3) The City Council shall state for the record upon completion of the inspection the material facts observed and the conclusions drawn therefrom. Each party then shall have a right to rebut or explain the matters so stated by the City Council.
- (f) The Council shall prepare a written summary of the hearing and shall set forth the decision reached. A decision shall be rendered within fifteen (15) days of the hearing, and the findings and decision shall be mailed to all parties to the appeal. (Ord. 855 (part), 2006; Ord. 792 §2 (part), 1999)

Article 3-1.18 – Civil Violation: Commencement of Action

- (a) A civil violation may be commenced by issuance of a citation or by complaint.
- (b) The citation will be issued with a form modeled after the Arizona Traffic Ticket and Complaint and shall direct the defendant to appear in the City Court within ten (10) days after issuance of the citation.
- (c) The citation will further notify the defendant that if he fails to appear on or before the date specified in the complaint, a judgment by default will be entered against him, and the Court may, in its discretion, impose a civil sanction not to exceed one thousand dollars (\$1000.00)
- (d) Service of the citation may be accomplished and will be deemed proper and complete by any of the following methods:

- (1) By having the defendant sign the citation with a promise to appear in court within ten (10) days of the issuance of the citation.
  - (2) By hand delivering a copy of the citation to the defendant.
  - (3) By mailing a copy of the citation to the person charged by certified or registered mail, return receipt requested, to the person's last known address.
- (e) In the event service cannot be accomplished as set forth in divisions (d) (1), (d) (2) or (d) (3), the State may serve the defendant by any means allowed by the Arizona Rules of Civil Procedure 4.1 and 4.2.
- (f) Jurisdiction of all proceedings to enforce the provisions of this chapter shall be in the City Court. (Ord. 855 (part), 2006: Ord. 792 §2 (part), 1999)

Article 3-1.19 – Civil Citation: Authority to Issue The City Manager or designee, or any peace officer, may issue a civil citation pursuant to this chapter. Designee shall mean an individual employed by the City who has been appointed by the City Manager, in writing, to have the authority to issue civil code violations. Such authorization shall be filed with the City Clerk. (Ord. 855 (part), 2006: Ord. 792 §2 (part), 1999)

Article 3-1.20 – Appearance by Defendant The defendant shall, within ten (10) days of the issuance of the citation, appear in person or through his attorney in the City Court and shall either admit or deny the allegations contained in the citation. If the defendant admits the allegations, the Court shall enter judgment against the defendant and impose a civil sanction of the violation. If the defendant denies the allegations contained in the citation, the Court shall set the matter for hearing. (Ord. 855 (part), 2006: Ord. 792 §2 (part), 1999)

Article 3-1.21 – Default Judgment If a person served with a complaint fails to appear on or before the time directed to appear or at the time set for hearing by the Court, the allegations in the complaint shall be deemed admitted and the Court shall enter judgment for the City and impose a civil sanction. (Ord. 855 (part), 2006: Ord. 792 §2 (part), 1999)

Article 3-1.22 – Rules of Procedure for Civil Violations The Arizona Rules of Procedure for Civil Traffic Violation Cases shall be followed by the City Court for civil violations of this chapter, except as modified or where inconsistent with the provisions of this chapter, local rules of the City Court or rules of the Arizona Supreme Court. (Ord. 855 (part), 2006: Ord. 792 §2 (part), 1999)

Article 3-1.23 – Violations not exclusive Violations of this chapter are in addition to any other violation enumerated within City ordinances or the City Code and in no way limits the penalties, actions or abatement procedures which may be taken by the City for any violation of this chapter which is also a violation of any other ordinance or Code provision of the City or statutes of the State. (Ord. 855 (part), 2006: Ord. 792 §2 (part), 1999)

Article 3-1.24 – Each Day Separate Violation Each day any violation of any provision of this chapter is committed or permitted to continue, such violation shall constitute a separate offense and shall be punished as such hereunder. Each day there is a failure to perform any act or duty

required by this chapter shall constitute a separate offense and shall be punished as such hereunder. (Ord. 855 (part), 2006: Ord. 792 §2 (part), 1999)

Article 3-1.25 – Civil Penalties Any person who is found guilty of a civil violation of this chapter shall be sentenced to a fine of no more than one thousand dollars (\$1000.00) and no less than two thousand dollars (\$200.00), and may be forbidden from obtaining a business license or temporary business license no more than three (3) years. (Ord. 855 (part), 2006: Ord. 792 §2 (part), 1999)

Article 3-1.26 – Fees in Addition to Transaction Privilege Application fees levied under this chapter are in addition to the transaction privilege tax that may be required under Title 4 of the Code. If an applicant or business license holder fails to comply with Title 4, the City Manager is authorized to initiate the process for suspension or revocation of the business license in Article 3-1.20. (Ord. 855(part), 2006: Ord. 792 §2 (part), 1999)

Article 3-1.27 – Uniformity with Other Ordinances This title is not intended to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws or ordinances of the City of Williams, except those specifically repealed by this chapter or Ordinance No. 792. Issuance of a license by the City does not certify that the person is in compliance with any other statute, law, code or ordinance, including the Williams City Code. Issuance of any kind of business license does not bar or estop the City from enforcing any other statute, law, code or ordinance, including the Williams City Code. (Ord. 855 (part), 2006: Ord. 792 §2 (part), 1999)

## CHAPTER 3-2 – HOTELS AND MOTELS

Article 3-2.01 – Application of Chapter This Chapter shall apply to operators and owners of motels, motor hotels, motor courts, motor camps, hotels and like establishments. (1961 Code)

### Article 3-2.02 - Advertising Room Rates

- (a) In the event a hotel or motel operator posts, advertises or otherwise displays room rates that are visible from the street from which the hotel or motel fronts, such rates shall have lettering at least four (4) inches high and not more than six (6) inches high. No more than two (2) signs may be used by each hotel or motel to post, advertise or display rates.
- (b) A hotel or motel operator shall not post, advertise or display a rate on a sign which is visible from the street unless the sign upon which the rate is posted, advertised or displayed contains both a minimum and maximum room rental rent. Any posted, advertised or displayed maximum rate shall not exceed the posted, advertised or displayed minimum rate by more than twenty-five percent (25%). Unless otherwise posted, advertised or displayed, all rates posted, advertised or displayed shall be for a single room with double occupancy. All rates and their descriptive data relating to the room rate, posted, advertised or displayed shall be of the same size and prominence.
- (c) The motel or hotel operator shall make available for rent at least fifty percent (50%) of the motel's or hotel's rooms at the posted, advertised or displayed minimum rate or less of a double occupancy every day of hotel or motel operation.
- (d) All hotel and motel operators that post, advertise or display on a sign visible from the street minimum and maximum room rates for double occupancy shall post or display the same rates in each hotel or motel in full view of the registration desk and in each hotel or motel room on the door. The posting or display of minimum and maximum room rates in full view of the registration desk shall be of lettering at least two (2) inches high, and shall be located sufficiently close to the registration desk to allow a person with normal vision to read the posting or display of the minimum and maximum rate from the registration desk. (Ord. 762 (part), 1996)

Article 3-2.03 – Filing with City Clerk Each hotel or motel operator who posts, advertises or displays rates that are visible from the street must file with the City Clerk, on forms approved by the City Clerk, the minimum and maximum rates to be charged by the hotel or motel operator. The hotel or motel operator shall not rent a room or post, advertise or display a rate which is different than the rate filed with the City Clerk, unless the amount charged is less than the minimum filed for double occupancy with the City Clerk. Each filing with the City Clerk shall be for the rates to be charged in the succeeding month(s) after filing and such rates shall not be changed by any hotel or motel operator until the first day of the month after the filing. (Ord. 762 (part), 1996)

Article 3-2.04 – Register A register shall be maintained at every establishment subject to this Chapter and each guest shall be required to register his name and home address. The date of arrival and departure shall be clearly indicated and the register shall be maintained for a period of

at least one (1) year following registration. The register shall be open for inspection to any authorized person. (1961 Code)

Article 3-2.05 – Penalty Any person or business found guilty of violating any provision of Article 3-2.02, Article 3-2.03 or Article 3-2.04 shall be guilty of a Class 1 misdemeanor. Each day that the violation continues shall be a separate offense. Conviction for a first offense under this Section shall have a minimum fine of one thousand dollars (\$1,000.00). Conviction for a second offense under this Section shall have a minimum fine of two thousand dollars (\$2,000.00). Conviction for a third offense under this Section shall have a minimum fine of two thousand five hundred dollars (\$2,500.00) and shall result in a suspension of the operator's business license for a period of three (3) months. All fines shall be paid within twenty-four (24) hours. If the fine is not paid within twenty-four (24) hours, a warrant will be issued for the operator's arrest. (Ord. 762 (part), 1996)

### CHAPTER 3-3 (WAS DELETED IN ORDINANCES 792 AND 855)

### CHAPTER 3-4 – GASOLINE STATIONS

Article 4.01 - Price Display All merchants selling gasoline and diesel fuel at retail, through dispensing pumps, are required to have their displayed pump price coincide with any and all advertised pricing. (Ord. 641)

Article 4.02 - Violations and Validity Any person found guilty of violating any provision of this Code shall be guilty of a Class 1 misdemeanor. Each day that violation continues shall be a separate offense punishable as hereinabove described.

## CHAPTER 3-5 – JUNK SHOPS, PAWNBROKERS AND SECOND-HAND STORES

### Article 3-5.01 – Definitions

- (a) Junk Shop – The term “junk shop” shall include any enterprise engaged in the processing of junk, waste, discarded or salvaged materials, machinery or equipment including automobile wrecking and dismantling.
- (b) Pawnbroker – The term "pawnbroker" shall include every person who makes a business of lending money on the security of personal property deposited in his keeping.
- (c) Second-hand Store – The term "second-hand store" shall include every person, who deals in the purchase and sale of goods of any type that have been used or previously sold at retail one (1) or more times. (1961 Code)

Article 3-5.02 – License Application for a license shall be made to the Office of the City Clerk. Said application shall request such information as, but not limited to, a description of the location of the applicant, together with a statement concerning the type of business contemplated. Upon receipt of properly completed application and the payment of a fee as specified in this Code, the City Clerk may issue a license for a Junk Shop, Pawnbroker, or a Secondhand-Store, subject to all the provisions of this Chapter.(1961 Code)

Article 3-5.03 – Prohibited Purchases and Inspections No person licensed under the provisions of this Chapter shall make any purchase from any minor without first obtaining the approval of the Marshal. The Marshal or other designated official shall be permitted at any reasonable time to inspect any property contained on the premises of any person licensed under this Chapter. (1961 Code)

Article 3-5.04 – Maintenance of Records Any person licensed under the provisions of this Chapter shall maintain a written record of all business transactions, including a description of the item purchased, the date and time of purchases, and the name and address of the person from whom it was purchased. This record shall be in the English language and shall be available at any reasonable time for inspection by the Police or other designated official. (1961 Code)

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## CHAPTER 3-6 – CABLE TELEVISION (Ord. 512)

Article 3-6.01 – Rules of Construction; Definitions When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular number; and words in the singular number include the plural number.

Any right or power conferred, or duty imposed upon any officer, employee, department or board of the City is subject to transfer by operation of law to any other officer, employee, department or board of the City.

This Code does not relieve licensee of any requirements of any ordinance, rule, regulation or specification of the City including any requirement relating to street work, undergrounding of utility facilities, including cable system facilities, or the use, removal, or relocation of property in streets.

- (a) License - The word "license" shall mean the right and authority granted by this Code to licensee to construct, maintain and operate a cable television system through use of the public streets, and other public right-of-ways in the City.
- (b) License Property - The term "license property" shall mean all property owned, installed or used under authority of this Code of licensee.
- (c) Licensee - The word "licensee" shall mean the person or entity to whom the license is granted by this Ordinance and any lawful successor assignee of the original license.
- (d) Street - The word "street" shall mean the surface, the air space above the surface, and the area below the surface of any public street, communications or utility easement, or other public right-of-way or public place.
- (e) Cable Television System or Cable System - The terms "cable television system" or "cable system" shall mean the signal reception, processing and distribution system used by licensee in the construction, operation and maintenance of the cable system for the City.
- (f) Subscriber - The word "subscriber" shall mean any person or entity receiving cable service of licensee.
- (g) Gross Subscriber Receipts - The term "gross subscriber receipts" shall mean the sums paid by subscribers living in the City to licensee for the supplying of regular subscriber service, that is, the fees for regular cable benefits including the distribution of broadcast signals and origination channels, if any. Such term shall not include revenues derived from per-program or per-channel charges, leased channel revenues, advertising revenues, or any other income derived from the cable system. Such term shall also not include any taxes on services furnished by the licensee imposed directly on any subscribers or user by any city/town, state or other governmental unit and collected by the licensee for such governmental unit.
- (h) Municipal Executive - The term "municipal executive" shall mean the City Manager, the City Clerk or a designee thereof.

Article 3-6.02 – Purpose and Intent It is the purpose and intent of this Code to grant a license to engage in the business of operating a cable system in the City. It is further the purpose and intent of this Code that the licensee provide the citizens of the City with a high quality cable television service.

Article 3-6.03 – License Application The prospective licensee must, prior to the issuance of the license, submit a license application. This application for a license to construct, operate or maintain a cable television system in the City is filed with the Office of the City Clerk and contains or is accompanied by the following information:

- (a) An application fee in the sum of one-hundred (\$100.00) dollars to pay the cost of studying, investigating or otherwise processing the application and which is in consideration thereof not returnable or refundable in whole or in part.
- (b) The name, address and telephone of the applicant. If the applicant is a partnership, the main address of each partner. If the applicant is a corporation, the names and addresses of the directors, main officers, and parent and subsidiary companies; and a corporate resolution authorizing the application for and operation of a cable television system, together with a copy of the Articles of Incorporation and Corporate By-laws.
- (c) A complete description of the cable system and the extent and manner in which existing or future poles or other facilities of existing utilities are or will be used for such system.
- (d) A statement setting forth all agreements and understandings, whether written, oral or implied, existing between the applicant and any person other than those listed in Section (b) above, who proposes to have controlling ownership interest with respect to the proposed license or the cable television operation. If a license is granted, and there exists a person posing as a front or a representative of another person and such information is not disclosed in the original application, such license shall be deemed voidable at the Council's option.
- (e) A statement or schedule setting forth the number of channels and all the television and radio stations or other communication services received, distributed, relayed, or otherwise conveyed over the cable system.
- (f) A financial statement prepared by a certified public accountant, or person otherwise satisfactory to the City, showing applicant's financial status and his ability to operate the cable system.

Article 3-6.04 – Nature and Extent of Grant The license granted by this Code to licensee constitutes authority to use the public streets, other public right-of-ways or public places in the City to engage in the business of operating a cable television system within the City limits, subject to all of the terms and conditions contained in this Code. Pursuant to such authority, until lawfully revoked, licensee may construct, maintain and operate wires, cables, conduits, manholes or any other equipment in connection with its receiving and distributing signals.

Article 3-6.05 – Duration of Grant A non-exclusive license is hereby granted to Star Cablevision Group ("licensee"), for receiving, distributing, and supplying radio, television and other cable

communication services along, across and upon the public streets, ways, alleys, and places within the City.

The license granted by this Code shall become effective fourteen (14) days after licensee has obtained all necessary permits, licenses and authorizations, including right of access to poles and conduits, provided that licensee within thirty (30) days from said date, has filed with the City Clerk a written instrument addressed to the Council accepting the license and agreeing to comply with all provisions of this Code.

The term of the license shall be fifteen (15) years commencing on the effective date of the license, provided that upon written notice given by the City or licensee to the other, not less than one (1) year prior to the fifteenth anniversary to the effective date, and after the holding of a public hearing affording due process, the license may be renewed for a reasonable term.

Article 3-6.06 – Limitation Upon Grant No privilege or exemption is granted or conferred by this Code, except those specifically prescribed in it.

The license granted by this Code is a privilege personal to the original licensee. The license cannot in any event be sold, transferred, leased, assigned, or disposed of as a whole, or in part, or otherwise without prior consent of the City expressed by ordinance, and then only under such conditions as may be prescribed in the consenting ordinance; provided, however, that no such consent shall unreasonably be withheld, and further provided that no such consent shall be required for any transfer in trust, mortgage, or other hypothecation, as a whole or in part, to secure an indebtedness. There shall be no restrictions upon the transfer of this license to a controlled subsidiary or to a parent corporation.

Article 3-6.07 – Extension of Service The extent of construction for the area to be covered by the license is hereby approved, and license is authorized to extend construction throughout the licensed area. (Ord. 512)

The licensee shall, within sixty (60) days of the effective date apply for a certification of compliance from the Federal Communications Commission, which application licensee shall prosecute. (Ord. 512, Amended. Ord. 537; 12-14-78)

Article 3- 6.08 – Regulation of Services The Council shall have the power and right at all times for the duration of the license granted to require licensee to conform to the terms and conditions of this license. Licensee shall:

- (a) Render efficient service, make repairs promptly and interrupt service only for good cause and for the shortest time practical;
- (b) Where circumstances warrant, correct problems within a reasonable period of time, and be able to demonstrate by instruments and otherwise to subscribers that a signal of adequate strength and quality is being delivered to the subscriber's terminal;
- (c) Comply with all lawful FCC regulations regarding carriage of signals of broadcast television stations; and
- (d) Operate a cable system having a channel capacity required by the FCC.

Article 3-6.09 – Local Office and Complaints Licensee shall maintain local business office, or agent, which subscribers may telephone during regular business hours without incurring added message or toll charges, so that complaints regarding cable television operations may be promptly reported to licensee. Should a subscriber have an unresolved complaint regarding cable television operations, the subscriber shall be entitled to file his complaint with the municipal Executive, who has primary responsibility for the continuing administration of the license and the procedures for resolving complaints, and thereafter to meet jointly with a representative of the City and a representative of the licensee within thirty (30) days to fully discuss and resolve such matters. The licensee shall notify each subscriber, at the time of initial subscription to the service of the licensee, of the procedures for reporting and resolving such complaints.

Article 3-6.10 – Special Provisions Licensee shall provide the following facilities and services:

- (a) When requested by the Council and,] providing the cable system passes within one hundred fifty (150') feet thereof, licensee shall provide one free outlet to public schools and community colleges within the City ; and fire and police stations and other buildings owned and controlled by the City used for public non-residential purposes.
- (b) The licensee shall have, at all times up-to-date route maps showing trunk and distribution Lines. Licensee shall make all such maps available for review by the appropriate City personnel.
- (c) The cable system shall be installed and maintained in accordance with standard good engineering practices and shall conform when applicable with the National Electrical Safety Code and Federal Communications Commission's rules and regulations as they apply.

Article 3-6.11 – Installation of Distribution System Any wires, cable lines, conduits or other properties of the licensee to be constructed or installed in streets, alleys or other right-of-ways shall be so constructed or installed in such manner as shall be approved by the City acting in the exercise of its reasonable discretion. The entire distribution system of the licensee including wire, cable, appurtenances and facilities shall be located or relocated and so erected as not to interfere with travel over, in, on or under any public way and with reasonable ingress and egress to abutting property. The licensee may, with the consent of the owner, use the poles and other equipment or utilities serving within the City.

In those areas and portions of the City where the distribution facilities of the utility providing telephone service and those of the utility providing electric service are underground or hereafter are placed underground, then the licensee shall likewise construct, operate and maintain all of its distribution facilities or other means of distributing signals underground. For all new residential structures erected in areas with underground utility service, the subdivider must provide licensee, at the subdivider's own expense, with trenches and backfill necessary for undergrounding cable distribution facilities. All subdividers must permit, upon licensee's request, the prewiring of the structures for cable television service.

Article 3-6.12 – Removal or Abandonment of License Property In the event that the use of any license property is discontinued for any reason for a continuous period of twelve (12) months; or

license property has been installed in a street or other public right-of-way without complying with the requirements of this Code; or the license has been terminated, canceled or has expired, the licensee at its expense, shall at the demand of the City remove promptly from the street all license property other than an which the City may permit to be abandoned in place. In the event of any such removal, licensee shall promptly restore to a condition as nearly as possible to its prior condition, the street or other public places in the City from which license property has been removed.

Article 3-6.13 – Changes Required by Public Improvements The licensee shall, at its expense, protect, support, temporarily disconnect, relocate in the same street, alley or public place, or remove from any street, alley or public place, any license property when required by the City by reason of traffic conditions, public safety, street vacation, freeway grade, installation of sewers, and tracts of any other type of structures or improvements including, but not limited to, placing such structures or improvements underground by governmental agencies when acting in a governmental or proprietary capacity; provided, however, that licensee shall in all cases have the privileges and be subject to the obligations to abandon license property in place, as provided herein.

Article 3-6.14 – Failure to Perform Street Work Upon failure of licensee to commence, pursue or complete ,any work required by law or by the provisions of this Code to be done in any street, within the time prescribed and to the reasonable satisfaction of the City, the City may at its option, cause such work to be done and the licensee shall pay to the City the costs thereof, in the itemized amounts reported by the City to licensee, within thirty (30) days after receipt of such itemized report.

Article 3-6.15 – License Fee Licensee shall pay to the City a license fee equal to two (2%) percent of the gross subscriber receipts commencing on the effective date of the license; which license fee shall be levied as a tax upon the licensee in lieu of all other license fees. Licensee shall file with the City, within sixty (60) working days after the expiration of each fiscal year, a financial statement of the estimated gross subscriber receipts of the preceding calendar year. It shall be the duty of the licensee to pay to the City, within thirty (30) days after the time for filing such statement, the sum hereinbefore prescribed or any unpaid balance thereof for the calendar year covered by such statement. At the request of the City, an adjustment based on a final annual financial statement prepared by a certified public accountant shall be submitted by licensee and the amount due or the rebate authorized as a result thereof shall be paid by licensee or City.

Licensee shall furnish the City, upon reasonable request, such data as needed in accordance with generally accepted accounting principles. The City shall have the right to inspect the licensee's records during normal business hours showing the gross subscriber receipts from which its license payments are computed and the right of audit and the recomputation of any and all amounts paid under this license.

Any willful neglect, omission, or refusal of the licensee to file said statement, or to pay said percentage in fell, at the time or in the manner hereinbefore provided, which willful neglect, omission or refusal shall continue for more than thirty (30) days, following written notice thereof to the licensee from the City, shall be grounds for the termination of this license as provided for herein.

Article 3-6.16 – Liability and Indemnification The licensee shall pay all damages and penalties which the City may legally be required to pay as a result of passage of this Code. The licensee shall also pay all expenses incurred by the City in defending itself with regard to all damages and penalties mentioned herein, provided that the Council promptly notify licensee of the pendency of such damages, claims, actions or causes of action without limitation. The expenses shall include all out-of-pocket expenses, such as attorney's fees. The licensee shall maintain and pay for liability insurance insuring the City and the licensee with regard to all damages charged against the City and/or the licensee resulting from the installation, development, maintenance or expansion of the cable system authorized by this Code, in not less than the following amounts:

- (a) Two hundred fifty thousand (\$250,000) dollars for bodily injury or death to any one person, with an aggregate limit for any one occurrence of five hundred thousand (\$500,000) dollars for bodily injury or death.
- (b) One hundred thousand (\$100,000) dollars property damage resulting from any one accident.

Article 3-6.17 – Termination The City may terminate the license hereby granted in the event of the willful failure, refusal or neglect by licensee to do or comply with any material requirement or limitation contained in this Code.

The City may make written demand that the licensee do or comply with any such reasonable requirement, limitation, term, condition, rule or regulation. If the willful failure, refusal or neglect of the licensee continues for a period of thirty (30) days following such written demand, a request for termination of the license may be placed upon the Council meeting agenda. The Municipal Executive shall cause to be served upon such licensee, at least ten (10) days prior to the date of such Council meeting, a written notice of intent to request such termination, and the time and place of the meeting. The Council shall consider the request and shall hear any persons interested therein, and shall determine whether or not any willful failure, refusal or neglect by the licensee was with just cause.

If such willful failure, refusal or neglect by the licensee was with just cause, the Council shall direct the licensee to comply within such time and manner and upon such terms and conditions as are reasonable.

If the Council shall determine such willful failure, refusal or neglect by the licensee was without just cause, then the Council may pass a resolution declaring that the license of such licensee shall be terminated and forfeited unless there be compliance by the licensee within such reasonable period as the Council may fix.

The termination and forfeiture of any license shall in no way affect any of the rights of the City under the license or any provision of law.

Article 3-6.18 – Penalty It shall be unlawful for any person, firm or corporation to make any unauthorized connection whether physically, electrically, acoustically, inductively or otherwise, with any part of a licensed cable system within the City for the purpose of enabling himself or others to receive any television signals, radio signals, picture, program, or sound, without payment to the licensee. It shall also be unlawful for any person, without the consent of the

licensee to willfully tamper with, remove, or injure any cable wires or equipment used for distribution of television signals, radio signals, pictures, programs or sounds.

It shall be a Class 3 misdemeanor for any person to violate any of the provisions of this Chapter.

Article 3-6.19 – Inspections and New Developments At all reasonable times, licensee shall permit examination by any duly authorized representative of the City of all license property, together with any appurtenant property of licensee situated within or without the City.

It shall be the policy of the City, liberally to amend this Code, upon application of the licensee, when necessary to enable the licensee to take advantage of any developments in the field of distribution of communications signals which will afford it an opportunity more effectively, efficiently, or economically to serve its subscribers.

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## CHAPTER 3-7 – GAS COMPANY FRANCHISE

Article 3-7.01 – Granting of the Franchise The City of Williams, a municipal corporation in Coconino County, Arizona, herein called the "Municipality," hereby grants to, and vests in, Citizens Utilities Company, a Delaware corporation, duly authorized to transact within this State a public service business as a gas utility, herein called the "Company," a franchise with the right to operate a gas plant, system, pipelines and works in the municipality, as now or hereinafter constituted, and the authority, license, power and privilege to maintain, construct, build, equip, conduct or otherwise establish and operate in said Municipality, works or systems and plants to manufacture, use, sell, store, distribute, convey or otherwise establish, conduct, serve, supply or furnish the inhabitants of said Municipality and others, and to the municipality whenever it may desire to contract therefor, gas for light, fuel, power, heat and any and all other useful purposes, and the Company hereby is granted passage, right-of-way and its right to occupy and use in any lawful way during the life of this franchise, every and any and all streets, avenues, alleys, highways, sidewalks, bridges and other structures and places and public grounds of said City, both above and beneath the surface of the same, as said streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and other structures and places and public grounds now exist or may be hereafter extended, for every and any such service, use, effect and lawful purpose as herein mentioned.

In conducting its activities authorized by this franchise, the Company will comply with all Federal, State, County and Municipal laws, ordinances and regulations. All plants, systems, pipelines, works, structures and equipment, and other appurtenances erected by the Company, shall be so located as to cause minimal interference with (i) the proper use by the general public and by any entity using the same with authority from the Municipality of streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and other structures or places or public grounds, and (ii) the rights and reasonable convenience of property owners who adjoin any of said streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges or other structures or places or public grounds. (Ord. 726 §1, 1994)

Article 3-7.02 – Powers and Duties The Company is hereby authorized, licensed and empowered to do any and all things necessary and proper to be done and performed in executing the powers and utilizing the privileges herein mentioned and granted by this franchise, provided the same do not unreasonably conflict with water or other pipes, sewers or other pre-existing underground installations, and that all work done in said streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges or other grounds of said Municipality by the Company shall be done with the utmost diligence and the least inconvenience to the public or individuals, and the company shall, within a reasonable time, restore such streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and public grounds excavated by it to their original condition as nearly as practicable at its expense and subject to the reasonable approval of the Municipality.

The Company shall remove or relocate its lines and facilities as and when required by the Municipality; such removal or relocation shall be made at the sole expense of the Municipality. In the event that the Municipality, at any time during the period of this franchise, shall elect to alter or change the grade of any street, avenue, easement, right-of-way, alley, highway, sidewalk, bridge or other structure, place or public ground, the Company shall, upon reasonable notice by

the Municipality, remove, relay and relocate its pipes, structures and other fixtures and improvements at the expense of the Municipality. However, if said removal or relocation is reasonably required to bring the Company into the compliance with the terms of this franchise or any Federal, State, County or Municipal laws, ordinances and regulations, the Company shall bear all expense.

The Company shall save the Municipality, its officers, agents and employees, harmless from, and shall defend and indemnify them against, any and all liabilities proximately caused, wholly or in part, by the Company's negligence or intentional acts or omissions in the erection, construction, installation or operation hereunder of the Company's facilities. (Ord. 726 §2, 1994)

Article 3-7.03 – Company Installations The Company's plant, systems, pipelines, works and other structures, equipment, improvements and appurtenances shall be installed in accordance with good engineering practices and shall be located, erected, constructed, reconstructed, removed, repaired, maintained and operated so as not to endanger or interfere with the lives of persons or to interfere with the improvements the Municipality may deem proper to make or to unnecessarily hinder or obstruct pedestrian or vehicular traffic to public ways, places and structures. Erection, installation, construction, replacement, removal, repair, maintenance and operation of the system shall be in accordance with the provisions of all requirements of the Municipality which may now be in effect or may be enacted in the future. All installations shall be of a permanent nature, durable and maintained in a safe, suitable and substantial condition in good order and repair. The Company shall not install Swanson 2306 and 3306 pipe within the franchise area. (Ord. 726 §3, 1994)

Article 3-7.04 – City Indemnified The Company hereby agrees to indemnify and hold harmless the Municipality, its officers, boards, commissions, employees, agents and independent contractors, against and from any and all claims, demands, causes of action, suits or proceedings regardless of the merits of the same, damages including damages to City property, liability, costs and expenses of every type, all or any part thereof which arise by reason of any injury to any person or persons including death or property damages, resulting from the negligence of the Company, its officers, agents, employees, servants and/or independent contractors, while exercising any of the rights, privileges, powers granted herein except for that portion of any liability, obligation or damage caused by the negligence of the Municipality as determined in accordance with the provisions of the Uniform Contribution Among Tortfeasors Act as set forth in A.R.S. Section 12-2501, et seq. The Company shall carry public liability insurance in a reasonable sum to cover its activities under this franchise and all liability potentially arising therefrom. The Municipality shall promptly notify the Company of any claim or cause of action which may be asserted against the Municipality relating to or covering any matter against which the Company has agreed, as set forth above, to indemnify, defend and save harmless the Municipality. The Company reserves the right, but not the obligation, to employ such attorney's, expert witnesses and consultants as it deems necessary to defend against the claim or cause of action. The Company further reserves the right to take total or partial control of such defense. In the event that the Company declines to employ such attorneys, expert witnesses and consultants against the claims or cause of action and the Municipality takes control, either totally or partially of such defense, the Company shall pay all expenses incurred by the Municipality in providing the defense. (Ord. 726 §4, 1994)

Article 3-7.05 – Rates and Charges The rates and charges to be charged by the Company for furnishing gas service hereunder and the rules and regulations to be made and enforced by the Company for the conduct of its business shall be those from time to time on file and effective with the Arizona Corporation Commission applicable to such service.

The Company shall notify the Municipality in writing of any application it makes to the Arizona Corporation Commission for authority to increase its rates as soon as said application has been filed. (Ord. 726 §5, 1994)

Article 3-7.06 – Assignment of Franchise The Company shall have the right and privilege of assigning this franchise and all rights and privileges granted herein, and whenever the word "Company" appears herein, it shall be construed as applying to its successors, lessees and assigns. (Ord. 726 §6, 1994)

Article 3-7.07 – Payments to City The Company, its successors, lessees, and assigns, for and in consideration of the granting of this franchise and as rental for the occupation and use or easement over, upon and beneath the streets, avenues, easements, rights-of-way, highways, alleys, sidewalks, bridges and public grounds in said Municipality shall pay to the Municipality, commencing with the first full billing period after the effective date of this franchise and continuing each year during all the time this provision shall remain in force and effect, a total aggregate sum of two percent (2%) of the gross receipts of the Company, its successors, lessees and assigns, during such year, for gas sold within the corporate limits of the Municipality, subject to the limitations hereinafter stated; such gross receipts to consist of the total amount collected from users and consumers on account of gas sold and consumed within the corporate limits of the Municipality under the Company's rates in existence at the time, excepting therefrom, however, the gross receipts for gas sold to industrial consumers under special contract, and the gross receipts for gas sold to the Municipality for its own use. The Company shall make such payments semi-annually on or before the last day of January and July in each such year while this provision shall remain in full force and effect. For the purpose of determining such revenue, the books of the Company shall at all times be subject to inspection by duly authorized municipal officials. Said payments shall be in lieu of any and all other franchise, license, privilege, instrument, occupation, excise or revenue taxes and all other exactions or charges (except general ad valorem property taxes, special assessments for local improvements, and except municipal privilege, sales or use taxes authorized by law and collected by the Company from users and consumers of gas within the corporate limits of the Municipality) upon the business, revenue, property, gas lines, installations, gas systems, conduits, storage tanks, pipes, fixtures or other appurtenances of the Company and all other property or equipment of the Company, or any part thereof, in said Municipality during the term of this franchise; provided, that anything to the contrary herein notwithstanding said payment shall continue only so long as said Company is not prohibited from making the same by any lawful authority having jurisdiction in the premises, and so long as the Municipality does not charge, levy or collect, or attempt to charge, levy or collect other franchise, license, privilege, occupation, excise or revenue taxes or other exactions or charges hereinabove mentioned, and if any lawful authority having jurisdiction in the premises hereinafter prohibits said payment, or the Municipality does levy, charge or collect or attempt to levy, charge or collect such other franchise, license, privilege, occupation, excise or revenue taxes, or other exactions or charges,

the obligation to make such payments hereinabove provided for shall forthwith cease. (Ord. 726 §7, 1994)

Article 3-7.08 – Written Acceptance This franchise shall be accepted by the Company in writing, which acceptance shall be filed with the Municipality within sixty (60) days after the passage of this franchise ordinance, and when so accepted, this ordinance shall be a contract duly executed by and between the Municipality and the Company. (Ord. 726 §8, 1994)

Article 3-7.09 – Severability If any section, paragraph, subdivision, clause, phrase or provision hereof shall be adjudged invalid or unconstitutional, the same shall not affect the validity hereof as a whole, or any part or provision other than the part so decided to be invalid or unconstitutional. (Ord. 726 §9, 1994)

Article 3-7.10 – Term This franchise shall continue in full force and effect for a period of twenty-five (25) years from the date of passage of this franchise ordinance. (Ord. 726 §10, 1994)

Article 3-7.11 – Termination, Expiration, Renewal All plant, system, pipelines, works, and all other physical property installed by the Company in accordance with the terms of this franchise shall be and remain the property of the Company, and upon expiration of this franchise or any extension or renewal thereof, the Company is hereby granted the right to enter upon the streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and other structures and places and public grounds of said Municipality for the purpose of removing any and all such plant, system, pipelines, works and other property of the Company, at any time within six months after termination of this franchise or any such extension or renewals thereof.

All work undertaken by the Company in the removal of said property shall be done in a workmanlike manner and with the utmost diligence and least inconvenience to the Municipality and the public. The Company shall, at its own expense and in a manner and time approved by the Municipality, restore all streets, avenues, easements, rights-of-way, alleys, highways, sidewalks, bridges and public grounds which may be excavated or otherwise affected by the Company in the removal of said property as nearly as possible to the condition of said property existing at the time of commencement of said restoration. (Ord. 726 §11, 1994)

## CHAPTER 3-8 – ELECTRIC COMPANY FRANCHISE (Ord. 643)

Article 3-8.01 – Granting of Franchise There is hereby granted to Arizona Public Service Company, an Arizona public service corporation, its successors and assigns, the right and franchise to construct, maintain and operate electric lines, plant and system consisting of poles, wires, substations and other facilities commonly used in the business of distributing electric energy by a public service corporation for the purpose of transmission, distribution and delivery of electric energy for light, heat, power and other purposes in, upon and through all the public streets, alleys and public places within the City limits, as now existing or as established. Said franchise to be exercised so as not to conflict with or endanger the use by the public of said streets, alleys, and public places.

Article 3-8.02 – Interference and Relocation In the event that any lines, poles, towers, conduits or other structures constructed under this grant shall at any time be found to interfere unduly with the proper use of such streets, avenues, alleys, highways or bridges, Arizona Public Service Company hereby agrees that it will, at its own expense, and within a reasonable time after notice thereof by the City Council, relocate said lines, poles, towers, conduits and other structures so as to minimize said interference.

Article 3-8.03 – Indemnification Arizona Public Service Company shall save the City of Williams harmless from any expenses and losses occasioned by reason of the exercise of this franchise by said Arizona Public Service Company.

Article 3-8.04 – Term This franchise shall continue for a term of twenty-five (25) years; provided, however, that it is granted for the purpose of enabling said Arizona Public Service Company to perform and carry out the terms of that certain Lease Agreement and its effectiveness shall be limited to the purpose aforesaid and shall terminate with the termination of said Lease Agreement or any amendment or extension thereof. If said Lease Agreement does not become effective, this franchise shall be of no force and effect.

Article 3-8.05 – Condemnation of Property The city reserves the right and power, and Arizona Public Service agrees and consents that the City shall have the right and power under the laws of Arizona to purchase or condemn Arizona Public Service Company's property within the City limits as now existing or hereafter extended, including Company's leasehold interest under the lease between the City of Williams and Arizona Public Service Company.

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## CHAPTER 3-9 – TRANSIENT RENTAL, LOUNGE AND RESTAURANT TAXES

### Article 3- 9.01 – Definitions

"Bar/lounge" means any public or private establishment where spirituous liquor, as defined by Ariz. Rev. Stat. Ann. Section 4-101.26 is sold for consumption on the premises.

"Gross income" means the consideration charged, whether or not received, for the occupancy of space in a hotel, motel, campground or gross sales of a bar, lounge or restaurant valued in cash, money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature, without any deduction therefrom whatsoever.

"Hotel/Motel/Campground" means any public or private establishment which provides transient lodging for compensation except hospitals, rest homes, nursing homes, foster homes, sheltered care homes or residential treatment facilities operated on a not for profit basis.

"Recreational facilities" means swimming pools, playgrounds, municipal golf courses, ball parks and municipal ski areas.

"Restaurant" means any business activity where articles of food, drink or condiment are customarily prepared or served to patrons for consumption on or off the premises, also including bars, cocktail lounges, the dining rooms of hotels, and all caterers. For the purposes of this chapter, a "fast food" business, which includes street vendors and mobile vendors selling in public areas or at entertainment or sports of similar events, who prepares or sells food or drink for consumption on or off the premises is considered a "restaurant" and not a "retailer."

"Tourism" means the guidance, management, marketing, accommodation, promotion and encouragement of tourists.

"Transient" means a person who obtains at his own or another's expense, lodging for thirty (30) days or less. (Ord. 779 (part), 1998)

### Article 3-9.03 – Administration

- (a) The administration of this article is vested in and shall be exercised by the Director of Finance, or such other person to whom it may be assigned the duty of administering, assessing and collecting the taxes hereby imposed, except as otherwise specifically provided herein, subject to the direction and supervision of the City Manager and the Mayor and Council; the Director of Finance, or such other person to whom he may assign the duty of administering, assessing and collecting the taxes hereby imposed, is hereby empowered to enforce the provisions of this article, together with the City Attorney, who is hereby charged with the duty of taking, commencing and prosecuting such legal remedies as are provided by law, including this article.
- (b) The Director of Finance shall keep such records and accounts as shall be necessary to adequately show separately the taxes collected under each of the classifications and amounts collected from business taxes by this article; the Director of Finance shall keep full and accurate records of all monies received by him and shall preserve all reports and

tax returns filed with him pursuant to the terms hereof for a period of four (4) years. (Ord. 779 (part), 1998)

Article 3-9.04 – Purpose of Tax

Taxes collected at one and one-fourth percent (1.25%) shall be used for tourism development and for the promotion, construction and maintenance of recreation facilities and their supporting infrastructure. (Ord. 779 (part), 1998)